

No. 1-13-3167

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE APPELLATE COURT
OF ILLINOIS
FIRST JUDICIAL DISTRICT

| | | |
|------------------------|---|--------------------|
| ANTOINE A. WOODS, SR., |) | Appeal from the |
| |) | Circuit Court |
| Plaintiff-Appellant, |) | of Cook County |
| |) | |
| v. |) | No. 12D1324 |
| |) | |
| RANESHA SMITH WOODS, |) | Honorable |
| |) | Dominique C. Ross, |
| Defendant-Appellee. |) | Judge Presiding. |

PRESIDING JUSTICE PALMER delivered the judgment of the court.
Justice Gordon and Justice Reyes concurred in the judgment.

ORDER

¶1 **Held:** The judgment of the circuit court of Cook County was affirmed where plaintiff failed to provide a sufficient record of the proceedings in the trial court and where plaintiff's contentions on appeal were unsupported by argument or citation to legal authority.

¶2 *Pro se* plaintiff, Antoine A. Woods, Sr., and *pro se* defendant, Ranesha Smith Woods, were married on March 22, 2008, in Riverside, Illinois. As a result of the marriage, two children were born to the parties. On April 17, 2012, plaintiff filed a petition for legal separation under the Illinois Marriage and Dissolution of Marriage Act (the Act) (750 ILCS 5/501 *et seq.* (West

2012)). Plaintiff asked for sole custody of the children and alleged that during the parties' marriage, they acquired no marital property within the meaning of the Act. Defendant answered and sought dissolution of the parties' marriage, custody of the children and child support.

Defendant also alleged that the parties had acquired a certain residential property (the property) while they were married that qualified as marital property within the meaning of the Act.

¶3 The trial court appointed a child representative for the parties' minor children. The court ordered plaintiff to pay \$2500 and respondent to pay \$500 to the child representative as temporary prospective fees. On June 13, the court ordered petitioner to pay \$1000 of that \$2500 by June 18 and to pay \$1500 by July 9, 2012. On June 19, 2012, an attachment order was entered against plaintiff for his failure to appear before the court as previously ordered and the Cook County Sheriff was directed to bring plaintiff to court to answer for his failure to appear. On June 28, the court entered an order remanding plaintiff to the Cook County Sheriff until he was to be returned to court for a hearing on June 29, 2012. The court set a cash bond of \$3500. On June 29, 2012, the court ordered that plaintiff was to remain in the custody of the Cook County Sheriff until he posted bond or until July 2, 2012, at which point he was to be returned to court for a hearing. On July 2, the court ordered that plaintiff was to remain in custody until he posted bond or until July 16, at which point he was to be returned to court for a hearing. The court also ordered that plaintiff "shall be present" at the hearing.

¶4 On July 13, 2012, plaintiff filed a motion to withdraw his petition for legal separation. On July 18, the circuit court ordered the clerk of the Circuit Court of Cook County to pay the proceeds of plaintiff's \$3500 bond to the child representative. On August 7, defendant filed a counter-petition for dissolution of marriage. Defendant claimed that the parties were separated and had lived apart for six months and that irreconcilable differences had caused the irretrievable

breakdown of the marriage. Defendant further asserted that during the parties' marriage, no marital property had been acquired. Defendant sought temporary and permanent custody of the parties' children as well as child support. Plaintiff filed a motion to dismiss defendant's counter-petition, claiming that the parties had only been separated for four months at the time the counter-petition was filed and therefore the statutory two-year waiting period had not passed. Plaintiff did not claim in this motion to dismiss that the court did not have personal jurisdiction over him. The court granted plaintiff's motion to withdraw his petition for legal separation and ordered the parties to exchange financial affidavits. In a subsequent order, plaintiff was required to pay \$200 per month in child support. On October 22, following a hearing, the court denied plaintiff's motion to dismiss defendant's counter-petition and granted defendant leave to amend her counter-petition.¹ Plaintiff subsequently filed a motion to quash the support order, claiming that there was no "legally based petition to issue an order against" and that the amount of child support ordered was "arbitrary."

¶5 On December 20, 2012, defendant filed an amended counter-petition for dissolution of marriage. Defendant asserted that the parties were separated and had lived apart for over a year, that mental cruelty and physical abuse had caused the irretrievable breakdown in the marriage and that further efforts at reconciliation would be impractical and not in the best interest of the family. Defendant again sought sole custody of the children and child support. On January 8, 2013, plaintiff filed a motion to dismiss "the proceedings," claiming that the amended counter-petition had not been properly served and that the court improperly advanced a "non-qualifying petition" and ordered plaintiff to pay child support. On May 13, 2013, the court denied plaintiff's motion to modify the child support order. On July 2, the court scheduled a pre-trial hearing on all pending motions for July 18. On July 18, the court scheduled the case for trial on September 23,

¹ There is no transcript of this hearing in the record on appeal.

2013.

¶6 On September 24, the court entered a judgment of dissolution of marriage.² The court's written order states that both parties appeared pro se and that the child representative appeared on behalf of the minor children. The order further states that the court heard the testimony of the parties and considered the evidence. The court found, among other things, that defendant had proven the grounds of irreconcilable differences for dissolution of marriage as alleged in her petition and that defendant was a "fit and proper" person to have the sole custody and care of the minor children. The court further found that the parties had certain marital property and certain marital debt and that plaintiff's income was "unascertainable" but that he supported himself without assistance from defendant. The court ordered that the bonds of matrimony between the parties be dissolved, that defendant be awarded sole care and custody of the children and that plaintiff was to have visitation with the children. The court further ordered that plaintiff pay defendant \$500 per month as child support and that the property was marital property with a value of \$17,000. Plaintiff was ordered to tender a check to defendant in the amount of \$8,500 or, if plaintiff failed to do so, the property was to be sold and the proceeds divided equally. This appeal followed.

¶7 Before addressing the issues that plaintiff raises on appeal, we make the following observations regarding the brief plaintiff has submitted to this court. Initially, plaintiff's statement of facts violates Supreme Court Rule 341(h)(6) (210 Ill. 2d R. 341(h)(6)). Rule 341(h)(6) requires that the statement of facts in appellant's brief "shall contain the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal *** or to the pages of the abstract." 210 Ill. 2d R. 341(h)(6). Here, plaintiff's "statement of facts" is incomplete and

² There is no transcript of the trial in the record on appeal.

contains no citations to the record.

¶8 Moreover, the arguments advanced by plaintiff are inadequately presented and unsupported by citation to the record and to relevant authority and are therefore in violation of Supreme Court Rule 341(h)(7) (210 Ill. 2d R. 341(h)(7)). That rule requires the appellant's brief to include "argument, which shall contain the contentions of the appellant and the reasons therefore, with citation of the authorities and the pages of the record relied on." 210 Ill. 2d R. 341(h)(7). As our supreme court has observed, "a reviewing court is not simply a depository into which a party may dump the burden of argument and research." *People ex rel. Illinois Department of Labor v. E.R.H. Enterprises, Inc.*, 2013 IL 115106, ¶ 56. "A court of review is entitled to have the issues clearly defined and to be cited pertinent authority." (Emphasis omitted.) *Id.* It is not the duty of this court to search the record to determine the real issues involved in an appeal and we will not examine the record for the purpose of reversing a judgment. *Twadorski v. Holiday Hospitality Franchising, Inc.*, 321 Ill. App. 3d 509, 511 (2001).

¶9 Compliance with Supreme Court Rule 341 is not an inconsequential matter. Where an appellant's brief fails to comply with the supreme court rules, this court has the inherent authority to dismiss the appeal. *Epstein v. Galuska*, 362 Ill. App. 3d 36, 42 (2005). Moreover, plaintiff's *pro se* status does not relieve him of the burden of complying with the format for appeals mandated by the supreme court rules. *Epstein*, 362 Ill. App. 3d at 39. However, violation of the supreme court rules does not divest this court of jurisdiction, and it is within our discretion to consider the merits of the appeal in the interest of judicial economy and where the facts necessary to understand the issues are simple. *Zadrozny v. City Colleges of Chicago*, 220 Ill. App. 3d 290, 292-93 (1991).

¶10 In addition to the deficiencies in his brief, plaintiff has failed to provide a sufficient

record of the proceedings in the trial court. Specifically, plaintiff has not included a transcript of the trial proceedings or the hearing during which the trial court denied plaintiff's motion to dismiss defendant's counter-petition and granted defendant leave to file an amended counter-petition. Plaintiff has also not submitted an acceptable substitute for these transcripts, such as a certified bystander's report, which is permitted under Supreme Court Rule 323(c) (210 Ill. 2d R. 323(c)) when no verbatim transcript is available.

¶11 Plaintiff, as the appellant, has the burden of providing a sufficiently complete record to support a claim of error. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 392 (1984). Absent such a record, a reviewing court will presume that the trial court's ruling was in conformity with the law and had a sufficient basis, and any doubts arising from the incompleteness of the record will be resolved against the appellant. *Id.* With all of these principles in mind, we address plaintiff's discernible contentions.

¶12 We initially note that in the "issues presented" section of this brief, plaintiff raises the issue of whether the trial court erred when it dissolved the parties' marriage based upon irreconcilable differences when defendant's amended counter-petition alleged mental and physical abuse as grounds for dissolution of marriage. However, this issue is not addressed in the argument section of plaintiff's brief. "A point not argued or supported by citation to relevant authority fails to satisfy the requirements of Supreme Court Rule 341(h)(7), (i) (see Ill. S.Ct. R. 341(h)(7), (i) (eff. Feb. 6, 2013) [citation])." *Id.* Both argument and citation to relevant authority are required. *Id.* Where, as here, an issue " 'is merely listed or included in a vague allegation of error [it] is not 'argued' and will not satisfy the requirements of the rule.' " *Id.* (quoting *Vancura v. Katris*, 238 Ill. 2d 352, 370 (2010)). Accordingly, plaintiff has forfeited review of this issue.

¶13 Plaintiff next contends that "[t]he undisputed evidence in this case proves that the court's

ruling on the [defendant's] petition was effectively against legislative protocol." In a contention which appears to also attack the evidence presented at trial, plaintiff contends that "the court did not compel [defendant] to provide evidence [in support of] her amended counter-petition." Both of these contentions are forfeited because they are raised in only a single sentence and they are unsupported by citation to legal authority or any argument. See *E.R.H. Enterprises, Inc.*, 2013 IL 115106, ¶ 56. Moreover, we cannot evaluate these contentions because we do not have a transcript of the trial proceeding. As the court's written judgment for dissolution of marriage states, the court heard testimony from the parties during trial. Without a transcript of the trial proceedings, we cannot determine what evidence was presented to and considered by the trial court. We note that the trial court's written judgment for dissolution of marriage states that the court was "fully advised in the premises," and it is well-settled that "[i]n the absence of a report of the proceedings, particularly when the judgment order states that the court was fully advised in the premises, a reviewing court will indulge in every reasonable presumption favorable to judgment, order or ruling from which an appeal is taken and must presume that the evidence heard by the trial court was sufficient to support the judgment absent any contrary indication in the record." *Mars v. Priester*, 205 Ill. App. 3d 1060, 1066 (1990). Therefore, even if these contentions were not forfeited, we would be required to presume that the trial court's judgment in this case was supported by the evidence and in conformity with the law.

¶14 Plaintiff next contends that the court "should have dismissed the case after plaintiff withdrew his motion for legal separation for lack of jurisdiction on [defendant's] motion."

¶15 The record shows that after plaintiff withdrew his petition, the court denied his motion to dismiss defendant's counter-petition and granted defendant leave to file an amended counter-petition. Whether to allow a party to amend a pleading is a determination within the trial court's

discretion. *Bank of America, N.A., v. Land*, 2013 IL App (5th) 120283, ¶ 21. Plaintiff has forfeited this contention because he has not supported it by citation to authority or any argument as to why the trial court's decision to allow defendant to amend her counter-petition was an abuse of discretion. Moreover, even if not forfeited, we would again be required to presume that the trial court's determination was not an abuse of discretion because we do not have a transcript of the hearing during which the trial court allowed defendant leave to amend.

¶16 Finally, plaintiff raises two contentions that are not sufficiently presented to warrant review on appeal. Plaintiff contends that "the court's constant ordering of continuances and status hearings without ruling was in part a pre-meditated stall tactic to force the plaintiff to settle on an agreement with [defendant] after the case passed a certain point." Plaintiff also contends that the court lacked jurisdiction "to award [defendant] 50% of a residential property that is legally owned by a company that I work for."

¶17 Both of these arguments are unsupported by any argument or citation to legal authority. Instead, each contention consists of only the above-quoted sentence. This is insufficient to satisfy the requirement of Supreme Court Rule 341(h)(7) and we therefore find that these contentions are forfeited. See *E.R.H. Enterprises, Inc.*, 2013 IL 115106, ¶ 56.

¶18 For the reasons stated, the judgment of the circuit court of Cook County is affirmed.

¶19 Affirmed.